



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2176-00

25 September 2000

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 18 September 1974 for four years at age 18. The record reflects that you served for 12 months without incident. However, during the 32-month period from September 1975 to May 1978 you received eight nonjudicial punishments (NJP). Your offenses consisted of three instances of disobedience, failure to obey a lawful order, 15 instances of failure to go or absence from your appointed place of duty, three brief periods of unauthorized absence (UA) totalling about eight days, disrespect and assault. During this period, you were formally counseled twice regarding your marginal performance of duty and habitual failure to report on time to your appointed place of duty.

On 7 June 1978 you were notified that you were being recommended for discharge by reason of unsuitability. You were advised of your procedural rights and that you would receive an honorable or general discharge as warranted by your service record. You declined to consult with counsel or to submit a statement in own

behalf. Thereafter, the commanding officer recommended you for a general discharge by reason of unsuitability due to a character and behavior disorder. A copy of the character and behavior disorder diagnosis is not on file in the record. On 5 July 1978 the discharge authority directed separation by reason of unsuitability with the type of discharge warranted by your service record. You received a general discharge on 20 July 1978.

Regulations provided that individuals separated by reason of unsuitability would receive the type of discharge warranted by the service record. Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Your conduct and proficiency averages were 3.7 and 3.9, respectively. A minimum average mark of 4.0 in conduct was required for a fully honorable characterization at the time of your discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and that the fact that it has been more than 22 years since you were discharged. The Board noted the litany of contentions you submitted which were apparently copied from a service counselor's handbook. These contentions are neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization given your record of eight NJPs and the fact that you failed to achieve the required average in conduct. The Board believed you were extremely fortunate that the commanding officer did not process you for discharge by reason of misconduct rather than unsuitability. Most individuals with records such as yours are discharged under other than honorable conditions. The Board concluded that you were guilty of too much misconduct to warrant an honorable characterization. The Board thus concluded the discharge was proper and no change is warranted.

With regard to your request for the National Defense Service Medal, eligibility requirements for this medal as they pertain to your case are honorable active service for any period after 26 June 1950 and before 28 July 1954, after 31 December 1960 and before 15 August 1974. It appears that you are not eligible for this medal since your active service began on 18 September 1974.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board.

In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director